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Paper No.

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500 West Madison Street  
34th Floor  
Chicago IL 60661

**MAILED**

**MAR 14 2011**

**OFFICE OF PETITIONS**

|                                 |   |                      |
|---------------------------------|---|----------------------|
| In re Application of            | : |                      |
| Wilson et al.                   | : |                      |
| Application No. 09/676,722      | : |                      |
| Patent No.: 6,993,144           | : | DECISION ON PETITION |
| Filed: September 28, 2000       | : | PURSUANT TO          |
| Issued: January 31, 2006        | : | 37 C.F.R. § 1.28(c)  |
| Attorney Docket No.: 12548US02  | : |                      |
| Title: INSERT EARPHONE ASSEMBLY | : |                      |
| FOR AUDIOMETRIC TESTING AND     | : |                      |
| METHOD FOR MAKING SAME          | : |                      |

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 29, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of \$2379 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>1</sup>

/Paul Shanoski/  
Paul Shanoski  
Senior Attorney  
Office of Petitions

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<sup>1</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).